



**INDIANA COURT OF APPEALS
ORAL ARGUMENT AT A GLANCE
BALL STATE UNIVERSITY--MUNCIE**



Christian v. State of Indiana

Appeal from:
Marion Superior Court
The Honorable Gary L.
Miller, Judge

Oral Argument:
Tuesday, October 28, 2008
2:00—3:00 p.m.
30 minutes each side

CRIMINAL LAW

Was the evidence sufficient to support Christian's conviction for public intoxication? Specifically, did the State prove that Christian was in a "public place?"

CASE SYNOPSIS

**Facts and Procedural
History**

On May 13, 2007, Officer David Siefker of the Indianapolis Metropolitan Police Department was dispatched to the corner of Randolph and Raymond Streets in response to a report that someone was trying to break into a pickup truck. Officer Siefker observed Christian

attempting to force a key into the lock of a pickup truck parked in a gravel area adjacent to Randolph Street. After Officer Siefker concluded that Christian was intoxicated, she was placed under arrest. That same day, she was charged with Class B misdemeanor public intoxication.

*Christian v. State of Indiana***CASE SYNOPSIS**

A bench trial was held on February 20, 2008. Christian testified that the truck was parked in a driveway adjacent to her friend's house. Tr. pp. 11-12. Officer Siefker testified that the truck was parked in a parking area "off the street, a place where people can pull in and park perpendicular to the flow of traffic." The officer also stated that Christian was in plain view of the street, but that she never left the parking area.

Christian was found guilty as charged and ordered to serve 180 days, with 178 days suspended to probation. Christian appeals her conviction.

The Parties' Arguments

Christian argues that she was not in a "public place," and therefore, the State failed to prove that she committed the offense of public intoxication. For the purposes of the public intoxication statute, the phrase "public place" has been defined as a place "visited by many persons, and usually accessible to the neighboring public," and "a place open to common and general use, participation and enjoyment; a place accessible to the public."

Christian argues that she was not in a public place because she was located in a private parking area next to a private residence. In response, the State asserts that Christian was located in a public place because the parking area did not belong to anyone in particular and many individuals use the area to park their vehicles.

TODAY'S PANEL OF JUDGES

Hon. John G. Baker (Monroe County), Chief Judge, Presiding

- Judge of the Court of Appeals since June 1989

Chief Judge **John G. Baker** is originally from Aurora in Dearborn County and now resides in Boone County. Previously he lived in Monroe County for 35 years. Since June 1989, he has served as a Judge of the Indiana Court of Appeals representing the First District and has authored more than 3,000 majority opinions. Prior to becoming an appellate court judge, he served as county court and superior court judge for 13½ years in Bloomington, disposing of more than 15,000 cases.

Judge Baker graduated from Culver Military Academy and received his A.B. degree from Indiana University in 1968 in History and his J.D. from the Indiana University School of Law — Bloomington in 1971. He received his LLM in Judicial Process from the University of Virginia in 1995. Before assuming the trial bench, he was a partner in the firm of Baker, Barnhart and Andrews in Bloomington and was a Captain in the U.S. Army Reserves.

Since 1980, Judge Baker has taught as an adjunct professor at Indiana University's School of Public and Environmental Affairs and for three years the School of Law in Indianapolis. In addition, Judge Baker has served on the faculties of the Indiana Judicial College, Indiana Continuing Legal Education Forum,

and the National Institute of Trial Advocacy.

His professional associations include the American, Indiana State, Monroe County and Indianapolis Bar Associations. For the latter, he served as Vice-President in 1995. He has been a member of the Indiana Judges Association's Board of Managers continually since 1979 and served as its President from January of 1987 through June of 1989.

Judge Baker has been active in community and civic affairs as well. In addition to his church, YMCA, and other similar organizations, Judge Baker has been active in Boy Scouts of America since his youth and was awarded the rank of Eagle Scout.

Judge Baker, who was retained on the Court by election in 1992 and 2002, lives near Zionsville with his wife, Margaret (Peggy) Paul Baker. They have five children and, so far, five grandchildren.

"Appeals on Wheels"

The Court of Appeals hears oral argument at venues across the state to enable Hoosiers to learn about the judicial branch.

This initiative began statewide just prior to the Court's centennial in 2001.

The Court of Appeals has held over 200 "on the road" cases since early 2000.

Sites for traveling oral arguments are often law schools, colleges, high schools, and county courthouses.

TODAY'S PANEL OF JUDGES

Hon. Paul D. Mathias (Allen County)

- Judge of the Court of Appeals since March 2000

Paul D. Mathias was appointed to the Court by Governor Frank O'Bannon in March, 2000. Judge Mathias is a fifth generation Hoosier and grew up in Fort Wayne. He graduated from Harvard University, *cum laude*, in 1976 and from Indiana University School of Law – Bloomington in 1979, where he was a member of the law school's Sherman Minton Moot Court Team and *Order of Barrister*.

Judge Mathias practiced law for six years in Fort Wayne, concentrating in construction law, personal injury and appellate practice. In 1985, he was appointed Referee of the Allen County Small Claims Court, where he served until his appointment as Judge of the Allen Superior Court – Civil Division by Governor Evan Bayh in 1989.

Judge Mathias served as an officer of the Indiana Judges Association from 1993 to 1999 and as its president from 1997 to 1999. He received the Centennial Service Award from

the Indiana State Bar Association in 1996, and a Sagamore of the Wabash Award from two governors.

Judge Mathias, who was retained on the Court of Appeals by election in 2002, is married and has two sons.

TODAY'S PANEL OF JUDGES

Elaine B. Brown (Dubois County)

- Judge of the Court of Appeals since May 2008

Elaine B. Brown, of Jasper, was appointed to the Court of Appeals by Gov. Mitch Daniels and took her seat on May 5, 2008. A native of Ferdinand, Judge Brown has lived her entire life in southern Indiana. She is the mother of two adult children.

Before joining the Court of Appeals, Judge Brown was a trial court judge for 15 years, as well as an attorney in private practice. She served as judge of the Dubois Superior Court from 2005 to 2008 and from 1987 to 1998. In the years between her tenure on the bench, she maintained a solo practice in Jasper and was a senior attorney with Fine & Hatfield in Evansville. Earlier in the 1980s, she practiced law with the firm of Thom & DeMotte in Jasper.

Judge Brown was salutatorian of the class of 1972 at Forest Park High School in Ferdinand. She earned a bachelors degree with distinction from Indiana University in 1976, and her J.D. from the IU School of Law in Bloomington in 1982. She was a teacher in the Greater Jasper Consolidated School Corporation for three years before she entered law school, teaching fine arts to students in grades K through 12.

A large part of Judge Brown's professional focus during her years on the bench has been a commitment to improving the lives of the citizens of Dubois County by addressing substance abuse issues of both individuals and families. In 2007, she initiated a new countywide alcohol and drug program and administered it through the Superior Court, a program similar to the Dubois Court Alcohol and Drug Services Program, for which she was president from 1987 to 1992. In 2005, she created the county's Drug Court. From 2006 until her elevation to the Court of Appeals, she also served as president of the Dubois County Substance Abuse Council; for eight years in the 1990s, she served on the executive board of the Dubois Substance Abuse Task Force. In 1997 and 1998, she volunteered with the Dubois County Reach-Out Suicide Prevention Committee. And from 1989 to 1990, she served on the Committee for a Drug Free Jasper.

Since 1998, Judge Brown has been an Indiana Registered Civil Mediator with advanced training. She graduated from the Indiana Judicial College

in 1996. She served for two years on the Board of Directors of the Indiana Judicial Conference and for two years on the Board of Managers of the Indiana Judges Association. She is a former member of the Indiana Supreme Court Character and Fitness Committee as well as the Judicial Administration Committee of the Indiana Judicial Conference. Judge Brown is also a member of the National Association of Women Judges, the American Judges Association, and the Indiana Council of Juvenile and Family Court Judges.

Judge Brown was active as leader in the Brook Inns of Court in Evansville and was an officer for four years of the Dubois County Bar Association, serving as president in 1985. She is a member of the American Judicature Society, the American Trial Lawyers Association, and holds or has held memberships in the American, Indiana State, Dubois County and Evansville bar associations. She served on the Family Law Study Committee of the Evansville Bar Association when she practiced law in that city.

Among her many community activities, she served on the Scott School Improvement Committee and the North High School PTSA Executive Board. She supported the Restore Old Jasper Action Committee and the Dubois County Museum and is a life member of the Ferdinand Community Center. She is a member of the St. Thomas More Society. A 1993 graduate of the Richard G. Lugar Excellence in Public Service Series, she served on that organization's Board of Governors from 1993 to 1998. In 1992, Judge Brown received the Outstanding Young Hoosier Award from the Indiana Jaycees, one year after the Jaycees presented her with a Distinguished Service Award. Judge Brown was the Vanderburgh County Representative for Senator Richard G. Lugar's 2000 campaign. In 1988, she was named Dubois County's Outstanding Republican Woman.

ATTORNEYS FOR THE PARTIES

For Appellant, Christian:

Joseph Thoms
Thoms & Thoms,
Indianapolis



Joseph Thoms is a 43 year old attorney who has practiced law for eleven years. Mr. Thoms is a partner in the firm of Thoms & Thoms with his father. He has been an appellate public defender

for nine years. This is his second oral argument before the Indiana Court of Appeals. Mr. Thoms' first one was in 2002 at Indiana State University.

For Appellee, State of Indiana:

Arturo Rodriguez II
Office of the Attorney General,
Indianapolis

Arturo Rodriguez II was born in Corpus Christi, Texas. He attended DePaul University in Chicago, Illinois where he graduated with a B.A. in Communications in 2002. Mr. Rodriguez attended Thomas M. Cooley Law School in Lansing Michigan. Prior to graduating from law school, he interned at Dykema Gossett PLLC. As an intern, he assisted in maintaining an Indian Law website and writing Energy Law newsletters.

Following law school, Mr. Rodriguez moved to Indianapolis where he was admitted to the bar in 2007. He is currently employed by the Office of the Indiana Attorney General as a deputy in the Appellate Division. As a Deputy Attorney General, he represents the State of Indiana in non-capital cases on direct appeal. In his free time, Mr. Rodriguez enjoys traveling and playing sports.